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Administration of justice at the United Nations

Administration of justice in the Secretariat

Report of the Secretary-General*

Summary

The present report is submitted in response to a request of the General Assembly in its resolution 57/307. In that resolution, the Assembly welcomed the initiative taken by the Secretary-General in requesting the Office of Internal Oversight Services to conduct a management review of the appeals process and requested the Secretary-General, taking due account of the findings of the Office of Internal Oversight Services, to report on alternatives for strengthening the administration of justice. In addition, the Assembly requested the Secretary-General to develop as a matter of priority an effective system of personal responsibility and accountability, including the issuance of an administrative instruction, to recover losses to the Organization caused by management irregularities, and to ensure that a department or programme manager whose decision is challenged by an appellant cooperates fully with and is accountable to the internal system of justice. The Assembly also requested the Secretary-General to undertake an in-depth analysis of the development of comprehensive legal insurance schemes to cover legal advice and representation for staff, to strengthen the Panel of Counsel, taking into account the report of the Office of Internal Oversight Services, and to provide statistics on the disposition of cases and information on the work of the Panel of Counsel. The present report focuses on the management review of the appeals process and includes proposals for strengthening the administration of justice, as well as providing information requested by the Assembly.

* The present report is being submitted at this time as its preparation needed to be based, pursuant to the express request of the General Assembly, on the findings of the management review of the appeals process conducted by the Office of Internal Oversight Services, which was finalized in late September 2004.

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I. Introduction

1. In its resolution 57/307 of 15 April 2003, the General Assembly considered certain aspects of the internal system of justice in the United Nations, welcomed the initiative of the Secretary-General in requesting the Office of Internal Oversight Services (OIOS) to conduct a management review of the appeals process and requested the Secretary-General to report thereon, as well as on certain other aspects of the internal system of justice, to the Assembly at its fifty-eighth session. The Assembly also concurred with the observations and recommendations contained in paragraphs 6 and 7 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/57/736), in which the Advisory Committee had requested that the management review address a number of specific items for the purpose of expediting the handling of appeals. In paragraphs 10 and 11 of its resolution 57/307, the Assembly further requested OIOS to include in its management review additional issues, namely, measures to shorten the period required for the disposal of cases, the procedures and functions related to the Joint Appeals Board, the Panel of Counsel, the Administrative Law Unit and the secretariats of the Joint Appeals Boards and the Joint Disciplinary Committees and their impact on and contribution to the administration of justice.

2. In accordance with the request of the General Assembly, the present report takes into account the findings of the management review of the appeals process conducted by OIOS, which was carried out from March to July 2004. The report of OIOS was finalized at the end of September (A/59/408).

II. Management review of the appeals process by the Office of Internal Oversight Services

3. In its report on the management review of the appeals process, OIOS made a total of 18 recommendations for making the process more effective through the provision of additional resources and the strict use of time limits, as well through improved training, communication and case management. The Secretary-General was appreciative of the value of the OIOS report, and agreed with its findings and the great majority of its recommendations, as discussed below.

A. Time taken to complete the appeals process and the resources allocated to it

4. OIOS looked at the functional responsibilities of all the organizational entities involved in the appeals and disciplinary processes and their respective time lines for dealing with cases. Focusing its review only on the appeals process (not the disciplinary process or the final adjudication stage of employment disputes by the Administrative Tribunal), OIOS found that it could be streamlined to make it shorter and made specific recommendations for time lines at all stages of the process. In addition, OIOS concluded that the delays that plagued the appeals process in the Secretariat were due to insufficient resources. The OIOS accordingly made specific recommendations for additional resources to be allocated to each of the organizational units involved in the appeals process (i.e., the Administrative Law Unit, the secretariats of the New York, Geneva, Vienna, and Nairobi Joint Appeals

Boards, the Office of the Under-Secretary-General for Management and the Panel of Counsel), as detailed in its report.

B. Need for training and communication

5. OIOS noted that a system dependent on volunteers required frequent and comprehensive training opportunities. While some training has been provided in New York, no training on the administration of justice has been offered in recent years at other headquarters duty stations or for field staff worldwide. OIOS recommended yearly two-day training courses for all staff involved in the judiciary process at each of the headquarters duty stations. As a means of improving communication, reviewing results achieved and addressing questions on policy and operational support, the report also recommended that the Under-Secretary-General for Management hold annual meetings with members of the Joint Appeals Boards/Joint Disciplinary Committees, officials acting for the respondent and the Panel of Counsel. Finally, OIOS recommended that the secretariats of the Joint Appeals Boards adopt a standardized electronic tracking system, which would provide information on expected deadlines and monitoring of trends and would be accessible to the parties.

6. The Secretary-General notes that great emphasis has been placed on the early resolution of grievances through dialogue, positive communication, exchange of information and reconciliation of differences. Moreover, mediation and informal resolution of grievances has been further enhanced since October 2002, when the Office of the Ombudsman started operating. In the area of training, new training programmes tailored to improving communication skills and emphasizing client service have been designed and are being offered in-house. Those programmes include components related to dispute-resolution techniques and are provided on a continuing basis. In addition, the Under-Secretary-General for Management meets regularly with members of the Joint Appeals Boards/Joint Disciplinary Committees.

7. Nevertheless, the Secretary-General recognizes that more can be done in the area of training, notably in the context of the appeals process, which is dependent on volunteers. In that regard, he supports the OIOS recommendations concerning the need for increased training and notes that training would need to be given in mediation and conciliation, report writing, law and policy on discrimination and harassment, the United Nations staff Regulations and Rules and the standards of conduct for the international civil service. Such training would need to be updated regularly to ensure maximum effectiveness. However, additional resources would need to be allocated for that purpose.

C. Other issues

1. Considering appeals out of order

8. OIOS noted that protracted delays in the appeals process were particularly serious for staff whose cases involved the non-renewal of contracts, given the financial implications of unemployment. OIOS proposed that the presiding officer of the Joint Appeals Board consider the concept of "leapfrogging" such appeals, or putting them at the front of the queue.

9. While the Secretary-General shares the concern over such cases, he does not support the proposal to leapfrog them, for two reasons. First, a substantial number of appeals involve the non-renewal of contracts, and putting them ahead of other cases would be unfair to the other appellants. Second, leapfrogging carries the danger of subjectivity on the part of the official determining which cases are more urgent. The solution would be to eliminate the backlog, as suggested by OIOS, and to hear all appeals promptly within the time limits foreseen by the Staff Rules. The proposed leapfrogging of a whole group of appeals, such as those concerning the non-renewal of appointments, would only shift the problem of delays to other appeals. That said, it should be noted that under the current rules of procedure of the Joint Appeals Board, particular individual appeals may be heard out of order on an exceptional basis.

2. Direct access to the United Nations Administrative Tribunal

10. OIOS noted that at present, staff members had no access to the United Nations Administrative Tribunal until the Secretary-General had considered the report of the Joint Appeals Board, which was dependent on the respondent submitting a reply to the Joint Appeals Board. OIOS proposed that after one year, during which time the impact of extra resources on the appeals process could be assessed, consideration could be given to amending the Staff Rules to enable an appellant to have direct access to the Tribunal should the Administration fail to respond within the prescribed time limits.

11. The Secretary-General does not support this proposal on the following grounds. First, the Joint Appeals Board is a fact-finding body and the Tribunal, which is not a de novo body, relies on the facts established by the Joint Appeals Board. If the Board has not established the facts of a particular case on the basis of an account given by both parties, the Tribunal would likely remand such "direct-access" cases to the Board for consideration on the merits, thereby adding to the delays. Therefore, the implementation of this proposal would not speed up the process, but rather would delay it further. Moreover, as OIOS itself acknowledges, the failure of the respondent to submit a reply within a certain period of time is largely a question of lack of resources, and it is this factor which needs to be addressed. In addition, the Secretary-General notes that the provision of direct access to the Administrative Tribunal would require the amendment by the General Assembly of article 7 of the Tribunal's statute.

3. Conflict of interest in the Department of Management

12. OIOS noted that nearly all component entities in the judicial process in New York were under the authority of the Department of Management, that is, the secretariat of the New York Joint Appeals Board, the secretariat of the Panel of Counsel, the Administrative Law Unit and the Office of the Under-Secretary-General for Management. In its report, OIOS stated that the concentration of responsibilities in the Department could be too readily perceived as a conflict-of-interest situation, thereby diminishing the objectivity of the appeals process. It recommended that the situation be reviewed with a view to adopting measures to address the appearance of conflict of interest. One suggested measure was to transfer to the Office of the Secretary-General or other Secretariat units the responsibility for formulating decisions on appeals.

13. Indeed, as OIOS acknowledges, this is an issue of perception rather than reality. Moreover, in view of the organizational structure of the United Nations system, it is unlikely that this perception could ever be totally eliminated, since all staff are ultimately accountable to the Secretary-General. Nevertheless, the Secretariat has taken measures to address the perception of conflict of interest. This issue was addressed in the late 1980s, when the responsibility for preparing decisions on the reports of the Joint Appeals Board was removed from the Office of Human Resources Management and assumed by the Office of the Under-Secretary-General for Management. This was done precisely because the Office of Human Resources Management was responsible for the preparation of respondents' replies to the Joint Appeals Board. In addition, the current working procedures of the Administrative Law Unit mitigate against any possibility of a conflict of interest, as its work is submitted directly to the Joint Appeals Board without it being seen by or discussed with the Office of the Under-Secretary-General for Management. Similarly, all Joint Appeals Boards and the Panel of Counsel, although administratively co-located in the Department of Management, enjoy total functional independence from each other and operate without any involvement from the Department.

14. Concerning the OIOS recommendation to transfer responsibility for preparing decisions on appeals outside the Department of Management, the Secretary-General notes that, aside from the Office of the Secretary-General, the only possible other Secretariat unit to which the function could be transferred would be the Office of Legal Affairs. The Secretary-General is not in agreement with such a transfer, since it would create the appearance of an even greater conflict of interest than the one OIOS is attempting to redress. This is because the Office of Legal Affairs acts as respondent in defending the Secretary-General's decisions on appeals before the Administrative Tribunal and could not, therefore, at the same time be the office responsible for preparing those decisions. It is further noted that there is no easy solution to the perception of a conflict of interest. Ultimately, all elements of the internal justice system other than the Administrative Tribunal are under the authority of the Secretary-General. This does not mean that there cannot be effective checks and balances in the way the system is set up. For lack of an alternative that clearly eliminates any possibility of a perception of a conflict of interest rather than shifting the problem elsewhere, it is recommended that the status quo be maintained.

III. Alternatives for strengthening the administration of justice

15. In paragraph 9 of its resolution 57/307, the General Assembly requested the Secretary-General, taking due account of the findings of OIOS, to submit a report containing alternatives for strengthening the administration of justice for consideration at its fifty-eighth session.

A. Addressing the delays in the appeals process

16. The mandate given to OIOS by the General Assembly was to focus its review on measures to shorten the period required for the disposal of cases, including imposing deadlines at all stages of the process. In that regard, the OIOS report includes specific recommendations for: (a) enforcing deadlines that are currently not met; (b) establishing deadlines for stages of the process where none existed before;

and (c) providing additional posts and/or temporary assistance funding to address and eliminate the current backlog at different stages of the process.

17. The deadlines recommended by OIOS would, if implemented, indeed assist in alleviating the delays, thereby effectively addressing the perennial complaint that the internal system of justice in general and the disposition of appeals in particular are slow and cumbersome. The Secretary-General fully endorses this objective, which, if achieved, would go a long way towards strengthening the internal system of justice in the Secretariat. At the same time, the notion of a speedier process is inextricably linked to the issue of adequacy of resources. Indeed, the imposition of deadlines in order to speed up the process, unless accompanied, at a minimum, by additional staffing resources, would not achieve the elimination of the current backlog or prevent the formation of a new one. Thus, while the Secretary-General agrees with the time lines proposed by OIOS, they should become mandatory only after the staffing shortages are addressed through the provision of additional resources and the backlog of cases is eliminated in the organizational units concerned. Otherwise, the Organization would be exposed to the risk of having the Administrative Tribunal award compensation to appellants for delays and not meeting the time limits.

18. The elimination of the backlog and the subsequent introduction and enforcement of the time lines for particular stages of the process, as recommended by OIOS, would result in a streamlined, transparent and more efficient process, which would, at the same time, uphold the Organization's commitment to a process that is fair and effective.

B. Training and communications in the context of the internal system of justice

19. Recently, the Secretariat has made the following particular improvements in the area of sharing with staff information on the internal system of justice.

20. Annual reports are issued providing information on the work of all Joint Appeals Boards worldwide and the disposition of appeals. The first such reporting was incorporated in the report of the Secretary-General contained in document A/56/800, which provided information on the work of all Joint Appeals Boards for the years 2000 and 2001, as well as information on the Secretary-General's decisions on the reports of the Joint Appeals Boards. Subsequent reports (A/58/300 and A/59/70) were issued for the years 2002 and 2003 respectively.

21. In addition, information circulars have been issued regarding the Secretary-General's practice in disciplinary matters (ST/IC/2002/25 and ST/IC/2004/28).

22. Another information circular was issued in 2004 providing updated information to all staff on the means available to them to address and resolve conflict situations that may arise in the workplace (ST/IC/2004/4).

23. Furthermore, the Department of Management has created and is maintaining an electronic Digest of Cases and Jurisprudence of the United Nations Administrative Tribunal, which includes case briefs and excerpts from the Tribunal's jurisprudence. This Digest offers all staff the opportunity and the means to develop a comprehensive understanding of their rights and duties, as interpreted by the Administrative Tribunal.

24. In paragraph 27 of its resolution 57/307, the General Assembly requested the Secretary-General to continue to ensure that all decisions affecting the status of staff are communicated to the staff members concerned. This indeed continues to be the case.

C. Cooperation and accountability of managers

25. In paragraph 4 of its resolution 57/307, the General Assembly requested the Secretary-General to ensure that a department or programme manager whose decision is challenged by an appellant cooperates fully with and is accountable to the internal system of justice at all stages of the process.

26. The Secretary-General notes that there have already been significant improvements in this area. Requests for administrative review are sent to the relevant decision makers for comments, giving the time frame in which their comments must be received so that a meaningful review of the request can be conducted in the light of the comments. Managers are advised that the review stage presents an opportunity to settle the matter, if appropriate. They are also advised at that stage that, should the staff member follow up the request for an administrative review with an appeal to the Joint Appeals Board, he or she might be called to a hearing or be otherwise contacted by the Joint Appeals Board. Managers are also accountable in that their written explanations to the Administrative Law Unit become an integral part of the respondent's reply should the matter proceed to appeal. The Joint Appeals Board panel considering the case may call upon the responsible manager to explain his or her decision further in person should the panel not be satisfied with the written submission.

27. With the gradual introduction of the measures described above over the past several years, the cooperation of managers in the appeals process has improved. Finally, it is noted that the elimination of the backlog of appeals cases will come with increased accountability, since managers will be asked to explain their decisions very soon after making them, rather than many months or years later, when it may not even be the decision maker but his or her successor who will have to answer.

28. In addition, the Secretary-General is in agreement with the OIOS recommendations that: (a) staff members wishing to appeal an administrative decision should send a copy of their request for review to the executive head of their department, thereby facilitating the earliest possible resolution of the matter; and (b) the Administrative Law Unit clarify with managers the requirements for the respondent's reply and the contributions, including time limits, expected from the managers.

D. Other suggestions for strengthening the appeals process

1. Increasing staff participation in the Joint Appeals Board ("jury duty")

29. The Organization's recourse system, which depends on volunteers, often faces significant difficulties in identifying a sufficient pool of staff to serve on the Joint Appeals Board and the Joint Disciplinary Committee, given that volunteer staff members also serve on other specialized advisory bodies in the Secretariat. Those difficulties have contributed to the delays in the consideration of cases.

30. In order to address the delays resulting from those difficulties, a further option for strengthening the appeals process could be to reduce the system's reliance on

volunteers and to move to a "jury" system for the Joint Appeals Board and Joint Disciplinary Committee. This would entail the selection of staff to serve on the panels on a compulsory rotational basis, thereby significantly increasing the size of the pool from which members of the Joint Appeals Board and Joint Disciplinary Committee are drawn. It would also enhance the representativeness or "peer" characteristic of the panels, since they would be made up of members of various levels of seniority, management as well as staff, Professional as well as General Service. Such a system would facilitate recognition within the system that serving on a panel was part of a staff member's official functions, thereby reducing the difficulty presently experienced by some volunteers in being released from their regular functions to participate in the activities of the Joint Appeals Board.

31. The Secretary-General believes that this option has considerable merit. He would also draw to the Assembly's attention the following considerations. Increasing the size of the pool of "jurors" would mean that significantly greater resources would need to be devoted to training, since each time the pool rotated, the new panel members would need to be trained in the Staff Regulations and Rules, the jurisprudence of the United Nations Administrative Tribunal, mediation and conciliation and so on. In addition, careful thought would need to be given to the handling of exemptions from such duty. Exemptions could include staff members who have a real or perceived conflict of interest in a particular case and staff members whose official functions, by their nature or because of the exigencies of service (e.g., requirement to travel on mission frequently), preclude their participation in the panels or who already serve on other panels in addition to their regular functions.

2. Strengthening conciliation by the Joint Appeals Board

32. Pursuant to staff rule 111.2 (b), conciliation may be sought prior to the consideration of an appeal by the Joint Appeals Board. As noted in the OIOS report, conciliation and the settlement of cases are very labour-intensive activities and success can be elusive. However, there is little doubt that every effort should be made to avoid further litigation in cases that are conducive to settlement. To that end, the conciliation functions of the Joint Appeals Board could be strengthened through, among other things, the provision of training in the areas of mediation and negotiation.

E. Concluding remarks on strengthening the appeals process

33. The improvements proposed above, which take into account the findings and recommendations of OIOS, should, if implemented, improve the internal system of justice in general and the appeals process in particular. As OIOS has demonstrated in its report, the delays and backlogs in the process are for the most part the result of inadequate resources. The additional resources recommended by OIOS, along with the subsequent enforcement of the time lines, would substantially improve the system.

34. The provision of a full-time presiding officer at the New York Joint Appeals Board and the recommended increase in targeted training to be offered to all participants in the process would improve the quality of the advice given by the panels to the Secretary-General. This in turn would result in the Secretary-General's increasing acceptance of such advice, which would address another recurrent concern of the Joint Appeals Board members and staff representatives, namely, that their unanimous recommendations are sometimes not accepted by the Secretary-General.

35. In conclusion, the internal recourse system does not require a radical overhaul to make it more effective. The chronic delays and inefficiencies that have been its trademark in past years are largely the result of inadequate resources, in terms of both staffing and training, and this situation has been exacerbated by a significant increase in the number of cases, as confirmed by OIOS in its management review.

IV. Other action taken pursuant to the resolution

A. Independence of the United Nations Administrative Tribunal

36. In paragraph 5 of its resolution 57/307, the Assembly requested the Secretary-General to take steps to ensure the independence of the United Nations Administrative Tribunal and the separation of its secretariat from the Office of Legal Affairs, to study the possibility of its financial independence and to report thereon to the Assembly at its fifty-eighth session. In conformity with that request, the Secretary-General submitted a report entitled "Possibility of the financial independence of the United Nations Administrative Tribunal from the Office of Legal Affairs" (A/59/78).

B. Proposals on the role and work of the Panels on Discrimination and Other Grievances

37. With regard to the request of the General Assembly contained in paragraph 20 of its resolution 57/307 that the Secretary-General, in consultation with the Ombudsman and staff representatives, submit detailed proposals on the role and work of the Panel on Discrimination and Other Grievances, a separate report (A/59/414) has been submitted by the Secretary-General.

C. Activities of the United Nations Administrative Tribunal

38. In response to the request contained in paragraph 23 of the resolution, the United Nations Administrative Tribunal submitted a comprehensive report on its activities to the General Assembly (A/58/680).

D. Written notification of allegations to staff members

39. In paragraph 28 of the resolution, the General Assembly decided to amend staff rule 110.4 (a) to the effect that the notification of allegations against staff members should be done in writing. This amendment, which reflects actual practice, was promulgated in Secretary-General's bulletin ST/SGB/2003/8 and was subsequently included in the annual Secretary-General's bulletin consolidating amendments to the Staff Rules (ST/SGB/2004/1).

E. Personal financial responsibility of officials for financial losses to the Organization caused by gross negligence

40. In paragraphs 24 to 26 of the resolution, the General Assembly requested the Secretary-General: (a) to establish a clear linkage between the administration of

justice and responsibility and accountability in the United Nations Secretariat when decisions of the Administrative Tribunal result in losses to the Organization due to management irregularities; (b) to develop as a matter of priority an effective system of personal accountability to recover financial losses to the Organization caused by management irregularities; and (c) to finalize and issue an administrative instruction on the implementation of section XI, paragraph 9, of its resolution 55/258 of 14 June 2001.

41. In his report entitled "Management irregularities causing financial losses to the Organization" (A/53/849), the Secretary-General indicated the need to establish procedures that would determine whether there was "gross negligence" in a specific instance and what financial responsibility, if any, should be incurred by those who have committed gross negligence. In his follow-up report on management irregularities (A/54/793), the Secretary-General outlined the procedures that were being developed at that time by the Administration to that end, bearing in mind the need to ensure that the due process rights of staff members would be protected. Those procedures included changes in the composition and mandate of the Joint Disciplinary Committee to enable it to consider cases of staff members charged with gross negligence and make recommendations regarding their personal financial responsibility. The new procedures necessitated corresponding changes to the Staff Rules pertaining to the functions and composition of the Joint Disciplinary Committee. In addition, the revised Staff Rules and implementing administrative instruction needed to be circulated to staff representatives for comment before being put into effect. The necessary amendments to the Staff Rules have been promulgated by Secretary-General's bulletin ST/SGB/2004/14, and the new procedures were issued under administrative instruction ST/AI/2004/3, both with an effective date of 1 October 2004.

V. Other information requested by the General Assembly

A. Legal insurance schemes

42. In paragraph 16 of its resolution 57/307, the General Assembly requested the Secretary-General to undertake a more in-depth analysis of the implications of ensuring that the executive heads of organizations collaborate with the staff associations in the development of comprehensive legal insurance schemes to cover legal advice and representation for staff, with a view to ensuring equality of all staff in adversarial procedures and the widest possible access of staff to the administration of justice.

43. The request appears to envisage that such legal insurance schemes would cover not only the staff members of the Secretariat, but also the staff of other organizations, thus necessitating the coordination of consultations between the executive heads of such organizations and insurance providers for the provision of such insurance worldwide.

44. In response to the Assembly's request, consultations were initiated with the Secretariat's major insurance provider. The preliminary information that has been obtained concerning group legal insurance schemes in the United States of America indicates that federal law may not permit group legal plans that include United

States residents to cover employment-related matters or other matters adverse to the employer.[1]

45. It should be noted that one of the United Nations insurance providers (Aetna) has a legal reference programme that is automatically available to all United Nations staff members and retirees who are enrolled in the Aetna group life insurance plan and who are residing in the United States. This programme gives plan members and their families access to basic legal services at reduced rates: in other words, a large panel of professionally managed attorneys have agreed to charge discounted or flat-rate fees for certain services. Plan members can purchase only the services they need when they need them. However, the reference programme is not available for employment-related questions. Other insurance companies in the United States that provide legal insurance and/or prepaid legal plans were also consulted: every one of those companies excludes coverage for employer-employee disputes as a matter of policy.

46. Thus, as a potential solution to the problem of staff needing legal advice and representation for disputes relating to their employment with the United Nations, the preliminary indication is that legal insurance schemes or legal reference services may not be the answer, at least with regard to New York Headquarters staff, given that they apparently specifically exclude coverage for employment-related grievances. Accordingly, even if such group legal insurance schemes were at all possible in other areas of the world, the exclusion of staff members who are United States residents from coverage would create undesirable disparities among staff. Consultations are continuing with insurance providers on this matter.

B. Statistics on the disposition of cases and work of the Panel of Counsel

47. In paragraph 21 of its resolution 57/307, the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. To date, the annual reports of the Secretary-General on justice have mainly focused on the disposition of cases by and the outcome of the work of the Joint Appeals Boards. From now on, those reports will also include statistics and information on the work of the Panel of Counsel. The text and accompanying figures below present statistics and information on the work of the Panel of Counsel for 2003.

48. At present, staff members appealing administrative decisions or staff against whom disciplinary proceedings have been initiated may be assisted by volunteers from the Panel of Counsel. Any active or retired staff member can be a member of the Panel of Counsel, irrespective of educational background, legal training or administrative experience. Many volunteers do not have hands-on knowledge of United Nations policies, procedures or precedents. Accordingly, concerns have been raised about the inequality of staff representation compared to the professional lawyers who represent the Secretary-General in such proceedings.

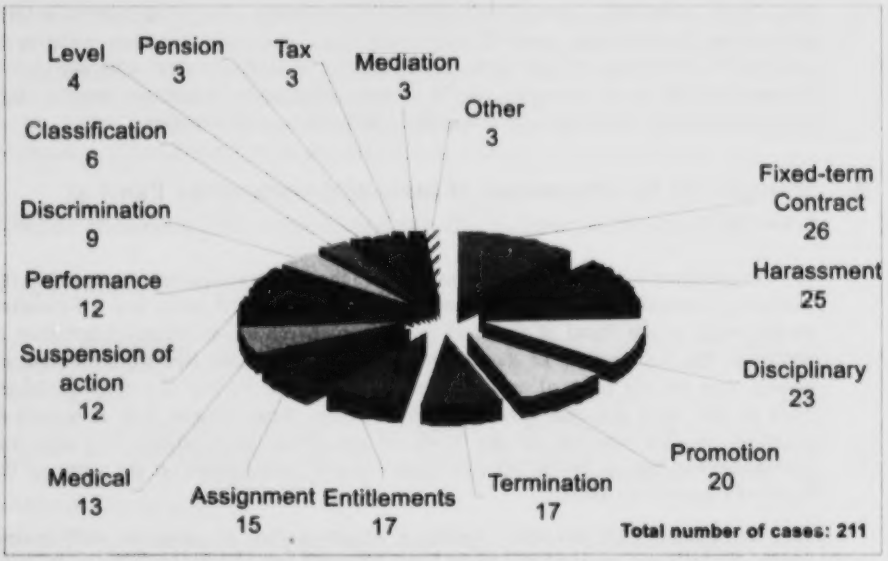
49. For that reason, in 2000 the Secretary-General proposed to make available to the Panel of Counsel a legal officer post at the P-4 level the incumbent of which

[1] United States Code, title 29, sect. 186.

would advise staff on their cases and provide guidance to the members of the Panel of Counsel. By paragraph 79 of its resolution 56/253 of 24 December 2001, the General Assembly approved the establishment of a new P-4 post but decided to allocate it to the newly established Office of the Ombudsman. In his earlier report on the administration of justice (A/56/800, para. 30), the Secretary-General indicated that it was indeed necessary to provide adequate support to the Ombudsman, but that the necessity to provide legal backstopping to the Panel of Counsel had not diminished. This was also the conclusion of OIOS, which recommended the establishment of a Professional post to strengthen the Panel of Counsel in New York, the incumbent of which would also provide support to the Panels of Counsel in other headquarters duty stations.

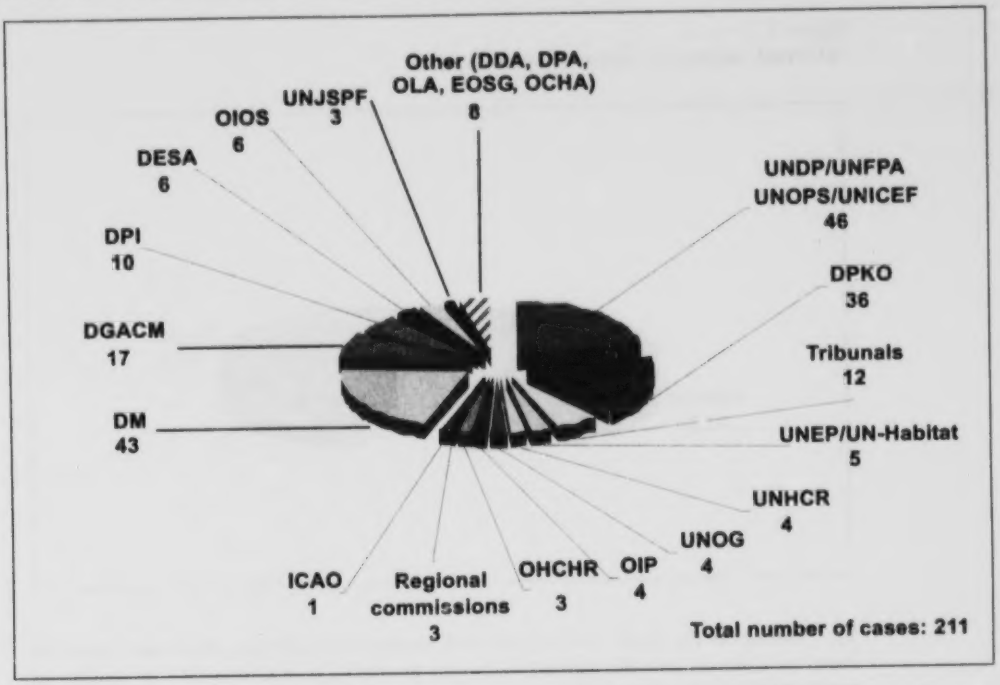
50. During 2003, current or former staff members requested the assistance of the Panel of Counsel in 211 new cases. As is depicted in figure 1, most of those cases concerned the non-renewal of fixed-term contracts, disciplinary matters and harassment, the latter two types of cases being highly labour-intensive.

Figure 1
Subject matters and number of cases dealt with by the Panel of Counsel, 2003



51. As can be seen from figure 2, many of the requests for assistance addressed to the New York Panel of Counsel in 2003 arose from staff members located in field-oriented departments and agencies, especially the Department of Peacekeeping Operations, the United Nations Development Programme, the United Nations Population Fund, and the United Nations Office for Project Services.

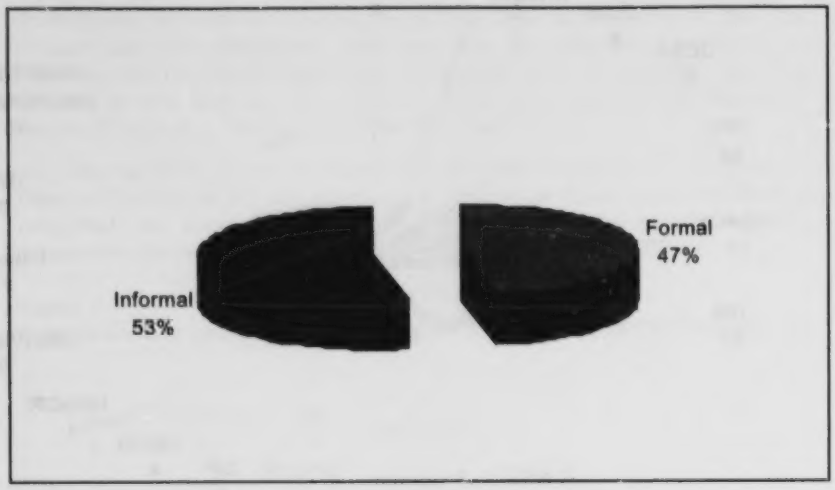
Figure 2
Departments/agencies where most cases originated, 2003



Abbreviations: DDA, Department for Disarmament Affairs; DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPA, Department of Political Affairs; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; EOSG, Executive Office of the Secretary-General; ICAO, International Civil Aviation Organization; OCHA, Office for the Coordination of Humanitarian Affairs; OHCHR, Office of the United Nations High Commissioner for Human Rights; OIOS, Office of Internal Oversight Services; OIP, Office of the Iraq Programme; OLA, Office of Legal Affairs; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UN-Habitat, United Nations Human Settlements Programme; UNHCR, Office of the United Nations High Commissioner for Refugees; UNICEF, United Nations Children's Fund; UNJSPF, United Nations Joint Staff Pension Fund; UNOG, United Nations Office at Geneva; UNOPS, United Nations Office for Project Services.

52. As can be seen in figure 3, of the 211 new cases in 2003, 99 (or 47 per cent) went through the formal appeals processes and 112 (or 53 per cent) were dealt with informally.

Figure 3
Informal resolution versus formal appeals



53. Owing to the sheer volume of staff members requesting assistance from the Panel of Counsel and the limited resources available to it at present, the quality of representation and advice offered to staff necessarily suffers, and this is particularly true for staff in field locations. In addition, opportunities for conciliation and settlement may not be pursued to the fullest extent owing to the severe time and resource limitations. It is expected that if the General Assembly decides to accept the recommendation of OIOS to provide a Professional post for the Panel of Counsel, this will result in a higher proportion of cases being settled informally.